

77-23-101. Title of act.

Sections 77-23-101 through 77-23-105 may be cited as the "Administrative Traffic Checkpoint Act."

Enacted by Chapter 72, 1992 General Session

77-23-102. Definitions.

As used in this part:

(1) "Administrative traffic checkpoint" means a roadblock procedure where enforcement officers stop all, or a designated sequence of, motor vehicles traveling on highways and roads and subject those vehicles to inspection or testing and the drivers or occupants to questioning or the production of documents.

(2) "Command level officer" includes all sheriffs, heads of law enforcement agencies, and all supervisory enforcement officers of sergeant rank or higher.

(3) "Emergency circumstances" means circumstances where enforcement officers reasonably believe road conditions, weather conditions, or persons present a significant hazard to persons or the property of other persons.

(4) "Enforcement officer" includes:

(a) peace officers as defined in Title 53, Chapter 13, Peace Officer Classifications;

(b) correctional officers as defined in Title 53, Chapter 13;

(c) special function officers as defined and under the restrictions of Title 53, Chapter 13; and

(d) federal officers as defined in Title 53, Chapter 13.

(5) "Magistrate" includes all judicial officers enumerated in Subsection 77-1-3(4).

(6) "Motor vehicle" includes all vehicles as defined in Title 41, Chapter 1a.

Amended by Chapter 282, 1998 General Session

77-23-103. Circumstances permitting an administrative traffic checkpoint.

A motor vehicle may be stopped and the occupants detained by an enforcement officer when the enforcement officer:

(1) is acting pursuant to a duly authorized search warrant or arrest warrant;

(2) has probable cause to arrest or search;

(3) has reasonable suspicion that criminal activity has occurred or is occurring;

(4) is acting under emergency circumstances; or

(5) is acting pursuant to duly authorized administrative traffic checkpoint authority granted by a magistrate in accordance with Section 77-23-104.

Enacted by Chapter 72, 1992 General Session

77-23-104. Written plan -- Approval of magistrate.

(1) An administrative traffic checkpoint may be established and operated upon

written authority of a magistrate.

(2) A magistrate may issue written authority to establish and operate an administrative traffic checkpoint if:

(a) a command level officer submits to the magistrate a written plan signed by the command level officer describing:

(i) the location of the checkpoint including geographical and topographical information;

(ii) the date, time, and duration of the checkpoint;

(iii) the sequence of traffic to be stopped;

(iv) the purpose of the checkpoint, including the inspection or inquiry to be conducted;

(v) the minimum number of personnel to be employed in operating the checkpoint, including the rank of the officer or officers in charge at the scene;

(vi) the configuration and location of signs, barriers, and other means of informing approaching motorists that they must stop and directing them to the place to stop;

(vii) any advance notice to the public at large of the establishment of the checkpoint; and

(viii) the instructions to be given to the enforcement officers operating the checkpoint;

(b) the magistrate makes an independent judicial determination that the plan appropriately:

(i) minimizes the length of time the motorist will be delayed;

(ii) minimizes the intrusion of the inspection or inquiry;

(iii) minimizes the fear and anxiety the motorist will experience;

(iv) minimizes the degree of discretion to be exercised by the individual enforcement officers operating the checkpoint; and

(v) maximizes the safety of the motorist and the enforcement officers; and

(c) the administrative traffic checkpoint has the primary purpose of inspecting, verifying, or detecting:

(i) drivers that may be under the influence of alcohol or drugs;

(ii) license plates, registration certificates, insurance certificates, or driver licenses;

(iii) violations of Title 23, Wildlife Resources Code of Utah; or

(iv) other circumstances that are specifically distinguishable by the magistrate from a general interest in crime control.

(3) Upon determination by the magistrate that the plan meets the requirements of Subsection (2), the magistrate shall sign the authorization and issue it to the command level officer, retaining a copy for the court's file.

(4) A copy of the plan and signed authorization shall be issued to the checkpoint command level officer participating in the operation of the checkpoint.

(5) Any enforcement officer participating in the operation of the checkpoint shall conform his activities as nearly as practicable to the procedures outlined in the plan.

(6) The checkpoint command level officer shall be available to exhibit a copy of the plan and signed authorization to any motorist who has been stopped at the

checkpoint upon request of the motorist.

Amended by Chapter 168, 2001 General Session

77-23-104.5. Signs -- Prohibitions.

An enforcement officer may not display a sign that notifies motorists of an administrative traffic checkpoint unless the checkpoint is being operated under the authority of a magistrate as provided in Section 77-23-104.

Enacted by Chapter 168, 2001 General Session

77-23-105. Failure to stop -- Criminal liability.

Any person who intentionally and knowingly passes, without stopping as required, any administrative traffic checkpoint operated under the authority of a magistrate as provided in Section 77-23-104 is guilty of a class B misdemeanor.

Enacted by Chapter 72, 1992 General Session

77-23-205. Officer may request assistance.

An officer who is serving a search warrant may request other persons to assist in conducting the search.

Amended by Chapter 153, 2007 General Session

77-23-210. Force used in executing a search warrant -- When notice of authority is required as a prerequisite.

(1) When a search warrant has been issued authorizing entry into any building, room, conveyance, compartment, or other enclosure, the officer executing the warrant may enter:

(a) if, after notice of the officer's authority and purpose, there is no response or the officer is not admitted with reasonable promptness; or

(b) without notice of the officer's authority and purpose as provided in Subsection (3).

(2) The officer executing the warrant under Subsection (1) may use only that force which is reasonable and necessary to execute the warrant.

(3) (a) The officer shall identify himself or herself and state the purpose of entering the premises as soon as practicable.

(b) The officer may enter without notice only if:

(i) there is reason to believe the notice will endanger the life or safety of the officer or another person;

(ii) there is probable cause to believe that evidence may be easily or quickly secreted or destroyed; or

(iii) the magistrate, having found probable cause based upon proof provided under oath, that the object of the search may be easily or quickly secreted or destroyed, or having found reason to believe that physical harm may result to any

person if notice were given, has directed that the officer need not give notice of authority and purpose before entering the premises to be searched under Rule 40, Rules of Criminal Procedure.

(4) (a) The officer shall take reasonable precautions in execution of any search warrant to minimize the risks of unnecessarily confrontational or invasive methods which may result in harm to any person.

(b) The officer shall minimize the risk of searching the wrong premises by verifying that the premises being searched is consistent with a particularized description in the search warrant, including such factors as the type of structure, the color, the address, and orientation of the target property in relation to nearby structures as is reasonably necessary.

Amended by Chapter 297, 2014 General Session

77-23-301. Warrantless searches regarding persons on parole.

(1) An inmate who is eligible for release on parole shall, as a condition of parole, sign an agreement as described in Subsection (2) that the inmate, while on parole, is subject to search or seizure of the inmate's person, property, place of temporary or permanent residence, vehicle, or personal effects while on parole:

(a) by a parole officer at any time, with or without a search warrant, and with or without cause; and

(b) by a law enforcement officer at any time, with or without a search warrant, and with or without cause, but subject to Subsection (3).

(2) (a) The terms of the agreement under Subsection (1) shall be stated in clear and unambiguous language.

(b) The agreement shall be signed by the parolee, indicating the parolee's understanding of the terms of searches as allowed by Subsection (1).

(3) (a) In order for a law enforcement officer to conduct a search of a parolee's residence under Subsection (1) or a seizure pursuant to the search, the law enforcement officer shall have obtained prior approval from a parole officer or shall have a warrant for the search.

(b) If a law enforcement officer conducts a search of a parolee's person, personal effects, or vehicle pursuant to a stop, the law enforcement officer shall notify a parole officer as soon as reasonably possible after conducting the search.

(4) A search conducted under this section may not be for the purpose of harassment.

(5) Any inmate who does not agree in writing to be subject to search or seizure under Subsection (1) may not be paroled until the inmate enters into the agreement under Subsection (1).

(6) This section applies only to an inmate who is eligible for release on parole on or after May 5, 2008.

Enacted by Chapter 357, 2008 General Session